

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RUSSELL H. DAWSON,

Plaintiff,

vs.

NAPHCARE, INC., et al.,

Defendants.

NO. 2:19-cv-01987-RSM

JOINT PETITION FOR APPROVAL OF
NAPHCARE SETTLEMENT

NOTE ON MOTION CALENDAR:
FEBRUARY 18, 2022

I. RELIEF REQUESTED

Pursuant to LCR 17(c) and Washington SPR 98.16W, all parties request that this Court approve the proposed settlement of all remaining claims against all remaining defendants, approve the allocation of the recovery for each minor beneficiary as set forth in the SGAL report, and approve the disbursement of the minors' funds into professionally managed trusts for each minor, which were previously created.

II. STATEMENT OF FACTS

Plaintiff and the remaining Defendants have reached a settlement, subject to Court approval. The Court previously appointed attorney Jennifer L. White as SGAL to investigate and report on the adequacy of the agreement on behalf of A.G., I.G., S.G., and D.G.

1 A proposed written settlement agreement, which details the terms of the proposed
 2 settlement, is included as an exhibit to Ms. White's report. The proposed allocation of the
 3 monetary payment between the individual beneficiaries, attorneys' fees, and reimbursement for
 4 litigation expenses is also set forth in Ms. White's report. Further, Ms. White's report sets forth
 5 recommendation that the minors' funds be disbursed into professionally managed trusts, which
 6 have already been created.

7 III. ISSUES PRESENTED

- 8 1. Whether this Court should approve the proposed settlement agreement?
- 9 2. Whether this Court should approve the allocation of the monetary payment for each
 10 minor into the previously established trusts, as set forth in the SGAL report?

11 IV. EVIDENCE RELIED UPON

12 Report of SGAL Jennifer L. White, Dkt. 246 (filed under seal) and the exhibits thereto;
 13 Declaration of J. Nathan Bingham, Dkt. 248 and the exhibits thereto; and the court file.

14 V. AUTHORITY

15 LCR 17(c) provides that "[i]n every case where the court is requested to approve a
 16 settlement involving the claim of a minor or incompetent, an independent guardian ad litem, who
 17 shall be an attorney-at-law, must be appointed by the court," to "investigate the adequacy of the
 18 offered settlement and report thereon."

19 Washington state law has separate minor settlement requirements. *See, e.g.*, SPR
 20 98.16W(a) ("[T]he court shall determine the adequacy of the proposed settlement on behalf of
 21 [an unemancipated minor] and reject or approve it."); *Scott v. Pac. W. Mountain Resort*, 834
 22 P.2d 6, 11 (1992) ("Under Washington law[,], parents may not settle or release a child's claim
 23 without prior court approval."); *Tinket v. Kent Gypsum Supply, Inc.*, 977 P.2d 627, 628, n. 1
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(1999) (“Court approval is necessary when settlements involve minors.”); *Kommavongsa v. Haskell*, 67 P.3d 1068, 1084 (2003) (Ireland, J., dissenting) (citing SPR 98.16W).

Courts typically treat the requirements of state law and LCR 17(c) as two distinct sets of requirements. *See, e.g., M.F. v. United States*, No. C13-1790JLR, 2015 WL 630946, at *4 (W.D. Wash. Feb. 12, 2015). However, federal district courts regularly address the state and federal requirements at the same time. *See, e.g., Briscoe v. City of Seattle*, No. 2:18-cv-00262-TSZ, Dkt. 149 (W. D. Wash. April 27, 2021) (federal district court approved settlement in compliance with LCR 17 and SPR 98.16W); *M.W. v. Safeway, Inc.*, No. 2:18-CV-01404-BAT, 2019 WL 4511927, (W.D. Wash. Sept. 19, 2019) (federal district court approved settlement in compliance with Fed. R. Civ. P. 17 and SPR 98.16W).

The parties hereby request that the Court approve the proposed settlement under both state law and LCR 17, and also approve the allocation of the monetary payment to the minors and disbursement of the minors’ proceeds into the trusts, as set forth in Ms. White’s report.

Respectfully submitted this 18th day of February, 2022.

KRUTCH LINDELL BINGHAM JONES,
P.S.

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Attorneys for Plaintiff

Attorneys for Defendants

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on this date I caused to be served in the manner indicated a copy of the foregoing document upon the following persons:

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☐ Via First Class Mail, postage
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Signed in Seattle, Washington on the 18th day of February, 2022.

Pia Kim

Pia Kim, Paralegal